

REMARKS

Telephone Interview

Applicants thanks Examiner for spending time on the telephone with the undersigned on June 15, 2004, to discuss the *Sludikoff, et al.* reference. No agreement was reached during the telephone conference.

Claims

Claims 1, 3, 4, 6-13, 17, 18 and 20-34 are pending in the present application. Claims 1, 3, 13, 17, 18, 20, 25, and 27-29 have been amended herein. Entry of this Amendment and further examination of the application in view of the amendments and following remarks is hereby requested.

The claims have been amended to further clarify the present invention applies to non-consecutive games, which is believed not disclosed by cited references. The methods with added element of non-consecutive games are fully supported by the specification, paragraph [0043], where it is stated that a player may select draws that are not consecutives. Applicants submit that no new matter has been added by the present amendment.

Rejection under 35 U.S.C. §112

The Office Action rejected claims 3 and 18 under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement, more specifically, for the specification failing to support the claimed "allowing a player to stop

the game and receive a payout for the total number of wins in the stopped game" as cited in claims 3 and 18. Applicants traverse the rejection.

Applicants respectfully direct the Examiner's attention to paragraph [0054], where it states that, after winning a payout of \$10.00, the player may collect the payout. The player may turn in his ticket and receive his winnings. Applicants submit that paragraph [0054] clearly supports the claimed element of "allowing a player to stop the game and maintain the total number of wins in the stopped game."

The Office Action rejected claims 13 and 20 under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement, more specifically, for the specification failing to support the claimed "increasing the payout amount by more than double for each successive win during a game" as cited in claims 13 and 20. Applicants traverse the rejection.

Applicants respectfully direct the Examiner's attention to paragraph [0059], where it states that "the payout for the second win is more than twice as much as the payout for the first win."

Therefore, because claims 3, 8, and 13 are fully supported by the specification, Applicants respectfully request the rejection be withdrawn.

Rejection under 35 U.S.C. §102

The Office Action rejected Claims 1, 4, 6-13, and 20-34 under 35 U.S.C §102(b) as being anticipated by *Sludikoff, et al.*, US Patent No. 5,232,221. The Office Action stated that *Sludikoff, et al.*, discloses a lottery game played by the player selecting a plurality of multiple digit rows of numbers with the game played over a series of days or

draws. The Office Action further stated that the more numbers one matches in *Sludikoff, et al.*, the higher the payout, and as payouts are cumulative over the period of play, they are “nonlinearly” increasing. It was then concluded that a thorough reading of *Sludikoff, et al.*, should enlighten all claimed limitations of the rejected claims. Applicants respectfully traverse this ground of rejection insofar as it pertains to the claims as amended.

While the Office Action generally stated that *Sludikoff, et al.* discloses all elements of claims 1, 4, 6-13, 17, and 20-34, it failed to clearly explain where in *Sludikoff, et al.* the elements are found. 37 C.F.R. §1.104(c)(2) states that when a reference is complex, the particular part relied on must be designated as clearly as practicable. The Office Action failed to do so.

Nevertheless, claims 1, 17, 25, and 29 have been amended to include the element that a player may select to play two non-consecutive rounds of play. Applicants submit that *Sludikoff, et al.* does not disclose this element.

Accordingly, because *Sludikoff, et al.* does not disclose at least the elements of player being able to select two non-consecutive rounds of play, it cannot anticipate claims 1, 17, 25, and 29 as amended. See MPEP §2131. Claims 4, 6-13, 18, 20-24, 26-28, and 30-34 are dependent from claims 1, 17, 25, and 29 and cannot be anticipated by *Sludikoff, et al.* for the same reason as applied to claims 1, 17, 25, and 29. As this ground of rejection has been overcome, Applicants request that the claims 1, 4, 6-13, and 20-34 be allowed.

Rejection under 35 U.S.C. §103

The Office Action rejected Claims 3 and 18 under 35 U.S.C §103(a) as being obvious over *Sludikoff, et al.* in view of Applicant's Admitted Prior Art (AAPA). The Office Action stated the feature of "early cash-out" is known to one of ordinary skill based on the statement in paragraph [0032] of the specification. Applicants traverse this rejection.

Nevertheless, as discussed above with regard to the patentability of Claims 1 and 17, Applicants submit that claims 3 and 18 are patentable for the reasons stated above insofar as pertains to claims 1 and 17. The suggested combination does not provide the absent element of the ability to play non-consecutive rounds of play.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that Claims 1, 3, 4, 6-13, 17, 18, and 20-34, as amended, are in condition for allowance and notification to that effect is earnestly solicited. If necessary, the Examiner is invited to telephone Applicant's attorney (404-873-8734) to facilitate prosecution of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 502666.


Respectfully submitted,
Meyer, et al.
By their Representatives,

 Date 7/18/04
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CERTIFICATE UNDER 37 CFR 1.8

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria VA 22313-1450, on this 19th day of July, 2004.


Lucille Golden-Blakey